

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WILLIAM PARSONS, Personal
Representative of the Estate of Randy
J. Parsons, deceased,

Plaintiff,

CIVIL CASE NO. 07-13335

v.

HONORABLE STEPHEN J. MURPHY, III

MICHIGAN DEPARTMENT OF
CORRECTIONS, et al.,

Defendants.

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ORDER ACCEPTING AND ADOPTING THE REPORT AND RECOMMENDATION

Before the Court is the Report and Recommendation of the Honorable Virginia M. Morgan, United States Magistrate Judge. The magistrate judge served the Report and Recommendation on the parties on November 4, 2008, and notified the parties that any objections must be filed within ten days of service. The plaintiff filed timely objections. For the reasons stated below, the Court overrules the plaintiff's objections and adopts the magistrate judge's Report and Recommendation.

The Court's standard of review for a magistrate judge's Report and Recommendation depends upon whether a party files objections. If a party objects to portions of the Report and Recommendation, the Court reviews those portions de novo. 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b)(3). De novo review in these circumstances requires at least a review of the evidence before the Magistrate Judge; the Court may not act solely on the basis of a Magistrate Judge's Report and Recommendation. See 12 Wright, Miller & Marcus, Federal Practice and Procedure: Civil 2d § 3070.2 (1997); *see also*

Hill v. Duriron Co., 656 F.2d 1208, 1215 (6th Cir. 1981). After reviewing the evidence, the Court “may accept, reject, or modify, in whole or in part, the findings or recommendations” of the Magistrate Judge. 28 U.S.C. § 636(b)(1)(C).

The Court has conducted a de novo review of the record and finds that the plaintiff’s objections are without merit. The reasoning of the magistrate judge in the Report and Recommendation is sound and correct. In particular, the defendants LaPlatt, Turner, Hammond, Blackburn, Broadus, Thomas, and Watson have not been properly served. Additionally, the plaintiff failed to request an extension of time for service. Finally, the plaintiff has failed to establish good cause for the failure to serve these defendants.

Accordingly, after having reviewed the magistrate judge’s Report and Recommendation, the plaintiff’s objections, and the applicable portions of the record, **IT IS HEREBY ORDERED** that the plaintiff’s objections [docket entry #85] to the Report and Recommendation are **OVERRULED**.

IT IS FURTHER ORDERED that the Report and Recommendation [docket entry #83] is **ACCEPTED and ADOPTED** as the opinion of this Court.

IT IS FURTHER ORDERED that the plaintiff’s claims against the defendants LaPlatt, Turner, Hammond, Blackburn, Broadus, Thomas, and Watson are **DISMISSED** pursuant to Federal Rule of Civil Procedure 12(b)(5).

SO ORDERED.

s/Stephen J. Murphy, III
STEPHEN J. MURPHY, III
United States District Judge

Dated: December 11, 2008

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on December 11, 2008, by electronic and/or ordinary mail.

s/Alissa Greer
Case Manager